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TRIAL—INSTRUCTIONS—UNCONTROVERTED FACTS.—TERRE HAUTE ELECTRIC Co. v. KIELY, 72 N. E. 658 (IND.).—*Held*, that it is not error for the court to assume, in its instruction, the existence of uncontroverted facts.

It has been held that the court cannot assume a fact even though established by proof beyond controversy, *Bal. & Susquehanna R. R. Co. v. Woodruff*, 4 Md. 242; for it would be an invasion of the right of the jury. *Zoune v. Wierson*, 3 Chand. 240. But by the great weight of authority the court may, in its instruction, assume facts which are uncontroverted, *Hall v. Monson*, 90 Iowa 585; even though testified to by only one witness, *First Nat. Bank v. Hatch*, 98 Mo. 376; and such assumptions are not grounds for reversal. *Mooney v. York Iron Co.*, 82 Mich. 263.